

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SERGEY SPITSYN,
Plaintiff,
v.
RICHARD MORGAN, *et al*,
Defendants.

Case No. C04-5134FDB-KLS

ORDER DENYING PLAINTIFF'S
MOTION TO BE ACCORDED
HIS RIGHT TO DUE PROCESS
OF LAW

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court on plaintiff's motion to be accorded his right to due process of law. (Dkt. #85). After reviewing plaintiff's motion and the balance of the record, the Court finds and orders as follows:

On April 19, 2006, the Court ordered plaintiff to file a second amended complaint, because he sought to add three more plaintiffs as parties to this matter, while the Ninth Circuit Court of Appeals specifically limited him to filing "an amended complaint that properly identified the persons and policies he alleges interfered with his constitutional rights." (Dkt. #75); Spitsyn v. Morgan, 160 Fed. Appx. 593, 595 (9th Cir. 2005) (emphasis added). For this reason, the Court refused to accept plaintiff's first amended complaint (Dkt. #57) for filing and his motion to add the three additional plaintiffs (Dkt. #60).

In his motion, plaintiff argues he was denied his right to due process, because he was not offered a

1 chance to file a reply to defendants' response (Dkt. #72) to his motion to add the three additional plaintiffs
2 (Dkt. #60). Specifically, plaintiff asserts the fact that this Court issued the above order only five days after
3 defendants' response was filed, precluded him from being able to file a reply thereto, and therefore from
4 being fully heard. Plaintiff further argues for the same reason that the due process rights of the three
5 plaintiffs he sought to add were denied as well. Plaintiff requests the Court allow him and the three other
6 potential plaintiffs to show cause on this issue.

7 Defendants respond by noting that the Court did not prohibit plaintiff from adding the additional
8 parties noted above based on their response to plaintiff's motion, but rather on the language contained in
9 the Ninth Circuit's remand decision. Accordingly, defendants argue no constitutional violation has been
10 suffered by plaintiff or the three other individuals he seeks to add as plaintiffs in this matter. Defendants'
11 reading of the Court's order is correct. In denying plaintiff's motion to add three additional plaintiffs, the
12 Court relied solely on the opinion of the Ninth Circuit.

13 Plaintiff argues in his reply, however, that the Ninth Circuit did not preclude him from adding other
14 parties as plaintiffs to this matter, asserting that the language from the Court of Appeals quoted above
15 addressed only the form of the pleading, and not whether additional plaintiffs could be added. Plaintiff's
16 interpretation of that language, while certainly creative, ignores the plain meaning of the words the Ninth
17 Circuit used. That is, although the Court of Appeals did not expressly state that plaintiff could not add
18 additional plaintiffs, it, in no uncertain terms, limited any amended complaint he chose to file to only those
19 allegations that involved his constitutional rights.

20 Accordingly, for the reasons set forth above, plaintiff's motion to be accorded his right to due
21 process of law (Dkt. #85) hereby is DENIED.

22 In addition, the Court notes plaintiff was previously warned by this Court (see Dkt. #75) that **as a**
23 **party proceeding *pro se* in this matter who is not licensed to practice law, he may not represent, or**
24 **submit pleadings on behalf of, other parties to this cause of action.** While plaintiff denies doing so, the
25 fact that he continues to argue on behalf the three additional parties he seeks to add as plaintiffs in this
26 motion belies that denial. For example, in his reply, plaintiff expressly states that he, "together with
27 potential plaintiffs Alvin Hegge, Valentina Rassokhina and Lyudmila Spitsyna, submits this Reply to
28 Defendants' Response." (Dkt. #92, p. 2.) In addition, he states that they "are all seeking for the right to
reply to be restored." Id. at p. 5.

1 Accordingly, **this is plaintiff's second warning. He shall submit no more motions, pleadings**
2 **or other filings on behalf of, or arguing for, any person or party to this matter other than himself.**
3 **Failure to do so may result in the imposition of sanctions, including, but not limited to, monetary**
4 **sanctions and/or dismissal of this action.** If the other parties plaintiff has sought to add as plaintiffs wish
5 to seek redress for perceived violations of their constitutional rights, they certainly may choose to do so by
6 filing individual separate actions on their own behalf. However, they may not do so in this matter, and the
7 Court will not entertain such challenges any further here.

8 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

9 DATED this 22nd day of June, 2006.

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13 Karen L. Strombom
14 United States Magistrate Judge
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